WEST VIRGINIA CODE: §22-7-1

§22-7-1. Legislative findings and purpose.

(a) The Legislature finds the following:

(1) Exploration for and development of oil and gas reserves in this state must coexist with the use, agricultural or otherwise, of the surface of certain land and that each constitutes a right equal to the other.

(2) Modern methods of extraction of oil and gas require the use of substantially more surface area than the methods commonly in use at the time most mineral estates in this state were severed from the fee tract; and, specifically, the drilling of wells by the rotary drilling method was virtually unknown in this state prior to the year 1960, so that no person severing their oil and gas from their surface land and no person leasing their oil and gas with the right to explore for and develop the same could reasonably have known nor could it have been reasonably contemplated that rotary drilling operations imposed a greater burden on the surface than the cable tool drilling method heretofore employed in this state; and since the year 1960, the use of rotary drilling methods has spread slowly but steadily in this state, with concomitant public awareness of its impact on surface land; and that the public interest requires that the surface owner be entitled to fair compensation for the loss of the use of surface area during the rotary drilling operation, but recognizing the right of the oil and gas operator to conduct rotary drilling operations as allowed by law.

(3) Prior to January 1, 1960, the rotary method of drilling oil or gas wells was virtually unknown to the surface owners of this state nor was such method reasonably contemplated during the negotiations which occasioned the severance of either oil or gas from the surface.

(4) The Legislature further finds and creates a rebuttable presumption that even after December 31, 1959, and prior to June 9, 1983, it was unlikely that any surface owner knew or should have known of the rotary method of drilling oil or gas wells, but, that such knowledge was possible and that the rotary method of drilling oil or gas wells could have, in some instances, been reasonably contemplated by the parties during the negotiations of the severance of the oil and gas from the surface. This presumption against knowledge of the rotary drilling method may be rebutted by a clear preponderance of the evidence showing that the surface owner or the surface owner's predecessor of record did in fact know of the rotary drilling method at the time the owner or the owner's predecessor executed a severance deed or lease of oil and gas and that the owner or owner's predecessor fairly contemplated the rotary drilling method and received compensation for the same.

(b) Any surface owner entitled to claim any finding or any presumption which is not rebutted as provided in this section shall be entitled to the compensation and damages of this article.

(c) The Legislature declares that the public policy of this state shall be that the

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compensation and damages provided in this article for surface owners may not be diminished by any provision in a deed, lease or other contract entered into after June 9, 1983.

(d) It is the purpose of this article to provide constitutionally permissible protection and compensation to surface owners of lands on which oil and gas wells are drilled from the burden resulting from drilling operations commenced after June 9, 1983. This article is to be interpreted in the light of the legislative intent expressed herein. This article shall be interpreted to benefit surface owners, regardless of whether the oil and gas mineral estate was separated from the surface estate and regardless of who executed the document which gave the oil and gas developer the right to conduct drilling operations on the land. Section four of this article shall be interpreted to benefit all persons.

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